

# EXHIBIT H

DAVID LAZAR Confidential  
SCHIFF vs CITY AND COUNTY OF SAN FRANCISCONovember 12, 2021  
1-4

	Page 1	Page 3
1	UNITED STATES DISTRICT COURT	1 I N D E X
2	NORTHERN DISTRICT OF CALIFORNIA	2
3	FREDERICK (RIC) SCHIFF; GLENN )	Witness
	BRAKEL; ALICE DICROCE; JOSEPH )	Page
4	EMANUEL; BRIAN GREER; CLAYTON )	3 DAVID LAZAR
	HARMSTON; STEVEN HASKELL; MICAH )	4
5	HOPE; DANIEL KELLY; ALEXANDER )	Examination by Mr. Mullanax
	LENTZ; BRANDON MCKELLEY; GERALD )	4
6	NEWBECK; DAVID O'KEEFE; )	5
	CHRISTOPHER RITTER; STEVEN UANG )	6
7	and THOMAS WALSH, )	7
	)	8 Exhibits
8	Plaintiffs, )	9 Exhibit No. 1 for Id. (8 pages)
	) Case No.	10 Sergeants Secondary Criteria Recommendations
9	vs. ) 4:19-cv-03260-YGR	11 Exhibit No. 2 for Id. (5 pages)
	)	12 Lieutenant Secondary Criteria Recommendations
10	CITY AND COUNTY OF SAN FRANCISCO; )	13 Exhibit No. 3 for Id. (1 page)
	GREG SUHR, individually; WILLIAM )	14 Captain Secondary Criteria Recommendations
11	(BILL) SCOTT, individually; and )	15
	DOES 1-20, )	16
12	)	17
	Defendants. )	18
13	_____ )	19
14		20
15		21
	(CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER)	22
16		23
17	DEPOSITION OF DAVID LAZAR	24
18	Taken on Friday, November 12, 2021	25
19	1:04 p.m.	
20	(Via Zoom conference)	
21		
22		
23		
24		
25	Reported by: Michelle K. Seymour, RPR, CCR, CSR, Arizona CCR #50710 / California CSR #5643	
	Page 2	Page 4
1	Appearances:	1 DEPOSITION OF DAVID LAZAR
2	For the Plaintiffs:	2
3	M. Greg Mullanax, Esq.	3 The deposition of DAVID LAZAR was taken
4	LAW OFFICE OF M. GREG MULLANAX	4 pursuant to Notice before Michelle K. Seymour, an
5	2140 North Winery Avenue, Suite 101	5 Arizona CCR, California CSR, on November 12, 2021,
6	Fresno, California 93703	6 commencing at 1:04 p.m., with all parties appearing
7	(559) 420-1222	7 via Zoom conference.
	greg@lawmgm.com	8 The following proceedings were had:
8	For the Defendants:	9 Thereupon --
9	Peter A. Cownan, Esq.	10 DAVID LAZAR,
10	OFFICE OF THE CITY ATTORNEY	11 was called as a witness by the Plaintiffs, and having
11	1390 Market Street, Fifth Floor	12 been first duly sworn by the Court Reporter, was
12	San Francisco, California 94102	13 examined, and testified as follows:
13	(415) 554-3863	14 THE WITNESS: I do.
14	peter.cowan@sfcityatty.org	15 * * * * *
15	Also Present:	16 EXAMINATION
16	Clayton Harmston	17 BY MR. MULLANAX:
17	Frederick Schiff	18 Q. Good afternoon, Chief. Is it Lazar? Am I
18		19 pronouncing your name correctly?
19		20 A. Yes, Lazar. David Lazar.
20		21 Q. Where are you located right now?
21		22 A. Right now, I'm located in my office at
22		23 police headquarters, 1245 3rd Street, on the Fifth
23		24 Floor.
24		25 Q. As I said early earlier, my name is Greg
25		

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DAVID LAZAR Confidential  
SCHIFF vs CITY AND COUNTY OF SAN FRANCISCONovember 12, 2021  
5-8

1 Mullanax, I represent the plaintiffs in this case and  
2 we're here to take your deposition here today.  
3 And so, I just have a couple preliminary  
4 questions.  
5 Have you ever reviewed any documents in  
6 preparation for your testimony today?  
7 A. No.  
8 Q. Have you been deposed before?  
9 A. Yes.  
10 Q. Do you know approximately how many times?  
11 A. Approximately, if I had -- well, I'm  
12 guessing by saying three.  
13 Q. And I'm sure over your career you've  
14 testified in court quite a bit, haven't you?  
15 A. Yes.  
16 Q. Okay. The deposition today is, your  
17 testimony is under oath, just like you were  
18 testifying in court. So just keep that in mind.  
19 And also, I only want to ask you about your  
20 personal knowledge about the subject. So if you have  
21 no knowledge, just tell us. I don't want you to  
22 speculate or guess about anything.  
23 Do you understand that?  
24 A. Yes.  
25 Q. Also, if I ask you a question and you don't

1 understand it, please let me know and I'll be happy  
2 to re-ask it.  
3 Do you understand that?  
4 A. Yes.  
5 Q. Okay. And if you want to take a break for  
6 any reason, let us know and we'll be happy to take a  
7 break.  
8 A. Yes. Okay. Thank you.  
9 Q. Okay. Can you hear me okay?  
10 A. Yes.  
11 Q. Okay. Good. First of all, what I'd like  
12 to do -- if it's okay with Peter -- if you could just  
13 give us a narrative of your career in the San  
14 Francisco Police Department, starting at about when  
15 you were hired, up to your position now.  
16 A. Okay. That's the first half hour, so I  
17 hope you're ready.  
18 Q. Okay. I'm ready.  
19 A. A lot to it. Okay. So, I joined the San  
20 Francisco Police Department on December 2nd, 1991.  
21 And after graduating from the police academy, I went  
22 to Central Police Station for field training. And I  
23 then, from there, went to the Tenderloin Task Force,  
24 for probation as a patrol officer. And then I went  
25 to Taraval Station as a patrol officer. Then, from

1 there, I went to Potrero Station. And from there, I  
2 went to Mission Station. At Mission Station, I was a  
3 patrol officer and a field training officer.  
4 In June of 1996, I was promoted to the rank  
5 of sergeant where I was assigned to Ingleside Station  
6 as a patrol sergeant for approximately two and a half  
7 years, at which point I was promoted again to the  
8 rank of inspector.  
9 In January of 1999, I went to the street  
10 enforcement, street crimes unit. I think it was  
11 called -- it wasn't -- it wasn't -- yeah, it was  
12 called Night Enforcement. So, Night Enforcement  
13 Unit, I went there, spent a month there. And from  
14 there, I went to the general work detail,  
15 investigating crime for a month during training  
16 program as an investigator. From there, I went to  
17 the auto detail, investigating auto theft and auto  
18 burglary. And then after that, for the next two  
19 years, I was in the Vice Crimes Division, where I  
20 investigated those who solicited undercover decoy  
21 female officers for prostitution and worked on  
22 pimping cases for two years.  
23 In May of 2001, I was promoted to the rank  
24 of lieutenant, where I was assigned as a platoon  
25 commander at Richmond Station, followed by Bayview

1 Station, where I was a platoon commander and worked  
2 on Operation Cease Fire.  
3 I then was transferred to Southern Station  
4 and was there for a little while, but then I was  
5 selected for the police academy. I was a director  
6 for the police academy for another two years, at  
7 which point I was transferred to the Field Operations  
8 Bureau and started a program called Operation  
9 Outreach, being the department's point person on all  
10 homelessness, working with other city agencies in a  
11 collaborative way to deal with homelessness. I did  
12 that for approximately, I think, two years.  
13 I was a lieutenant for six and a half years  
14 total, at which point, on January 12, 2008, I was  
15 promoted to the rank of captain. As the captain, I  
16 served as the night supervising captain. I did a  
17 small stint as the commanding officer of Southern  
18 Station. I then went to the Investigations Bureau  
19 again and worked as a captain of overseeing the  
20 Family Services Division, which included domestic  
21 violence and child abuse. I then went to the  
22 Personal Crimes Division, overseeing homicide,  
23 robbery, and, again, task force.  
24 In April of 2009, I transferred to  
25 Ingleside Station as the captain, where I implemented

DAVID LAZAR Confidential  
SCHIFF vs CITY AND COUNTY OF SAN FRANCISCO

November 12, 2021  
9-12

Page 9	Page 10	
	Page 11	Page 12

DAVID LAZAR Confidential  
SCHIFF vs CITY AND COUNTY OF SAN FRANCISCO

November 12, 2021  
13-16

<p style="text-align: right;">Page 13</p> <p>1 Q. And can you read it okay? Is it clear to 2 you?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Exhibit 1, let me just say for the 5 record, is an eight-page document, starting with page 6 CCSF-2097, and the last page of the exhibit is 7 20804.</p> <p>8 (Exhibit 1 was marked and is attached 9 to the original transcript of the 10 deposition.)</p> <p>11 BY MR. MULLANAX:</p> <p>12 Q. I'm going to go back to the first page of 13 the document.</p> <p>14 And do you recognize this document?</p> <p>15 A. Yes.</p> <p>16 Q. What is it?</p> <p>17 A. This is a secondary criteria recommendation 18 sheet that I completed.</p> <p>19 Q. Okay. And that's your handwriting on 20 there?</p> <p>21 A. Yes.</p> <p>22 Q. Do you know when you completed this form? 23 It's not dated is why I ask.</p> <p>24 A. I don't know the exact date offhand, but it 25 was sometime -- it was -- it was in my role as a</p>	<p style="text-align: right;">Page 15</p> <p>1 A. Yes. It's made up of deputy chiefs and 2 assistant chiefs.</p> <p>3 Q. Deputy chiefs and assistant chiefs. And 4 what's the process that you go through when you're 5 filling out this form? It doesn't have to be 6 specifically related to this Exhibit 1, but just 7 generally what's the process that you use when you 8 fill out this form?</p> <p>9 A. The process is that you are quietly handed 10 an envelope, which is the secondary criteria package, 11 and you, being on the committee, you open up the 12 envelope, you review its contents, and then you 13 complete this sheet.</p> <p>14 Q. And who else is in the room with you when 15 this is going on?</p> <p>16 A. The staff services or human resources 17 manager, Ben Houston, who facilitates the process, 18 and then it's deputy chiefs and assistant chiefs who 19 are available for this, for this work.</p> <p>20 Q. Now, when you're going through and 21 reviewing the secondary criteria, do you converse 22 with the other members of that committee when filling 23 out this form?</p> <p>24 A. No. There's no -- there's no -- well, can 25 you rephrase the question?</p>
<p style="text-align: right;">Page 14</p> <p>1 deputy chief, so it had to have been after September 2 3rd, 2019.</p> <p>3 Q. And when did you fill out this form? I 4 mean -- let me rephrase that.</p> <p>5 We had testimony previously from others 6 that were involved with the committee, I guess, 7 commanders and stuff and deputy chiefs, that meet 8 together to go through the secondary criteria of the 9 applicants' files and then they fill out these 10 sheets. Is that the case here?</p> <p>11 MR. COWNAN: Object to the form of the 12 question.</p> <p>13 If you understand the question, you can 14 answer it.</p> <p>15 THE WITNESS: I understand it, but 16 that's not -- the answer is no. It needs 17 clarification. I can clarify it. Or if you could 18 re-ask the question. Because you said commanders. 19 There are no commanders involved.</p> <p>20 BY MR. MULLANAX:</p> <p>21 Q. I apologize for that. I call -- I've been 22 calling it, shorthand, the "promotional committee." 23 That may not be the name you all use, but were you 24 meeting with the committee or the group of people who 25 filled these out when you filled that one out?</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Yeah. I'm sorry. I should have been more 2 specific.</p> <p>3 When you're going through the secondary 4 criteria, and I presume you have this form in front 5 of you, do you discuss with the other members of the 6 committee anything about the candidates that you're 7 reviewing?</p> <p>8 A. I would say, generally speaking, no.</p> <p>9 Q. When you go through -- and could you, 10 please, just for the record, could you tell us what 11 secondary criteria is?</p> <p>12 A. A secondary criteria is that after a 13 candidate for promotion takes the promotional 14 examination and scores on the civil service list, 15 then there are -- secondary criteria is actually the 16 next phase of their selection process, whereby they 17 are required to complete some documents, attach some 18 documents related to their experience, training, 19 employment history, and that gets reviewed by the 20 committee that you've identified.</p> <p>21 Q. Okay. And if we go back and look at 22 Exhibit 1. Is this the form that you fill out when 23 you're reviewing those documents, the secondary 24 criteria documents?</p> <p>25 A. Yes.</p>

23 MR. COWNAN: I may need the answer  
24 clarified. When you say no, do you mean you know or  
25 you don't know?

Page 23

1 I understand the process. The deputy chiefs aren't  
2 involved in that part of the conversation.  
3 Q. I'm sorry. What was that, again?  
4 A. Deputy chiefs, someone at my rank, are  
5 not -- or, I could speak for me. I'm not involved in  
6 anything beyond, no discussion or decisions beyond  
7 what I do here in this process.  
8 Q. And did you just say that other people have  
9 discussions with the chief on this promotional  
10 decisions?  
11 A. Yeah. I'm -- and I'm just spec -- I can't  
12 speculate. What I understand is that there is a --  
13 there may be discussions that happen. Or, actually,  
14 you know what, it's speculation, so I'm going to  
15 strike what I said.  
16 I believe -- I believe that assistant  
17 chiefs have a conversation with the chief, but, you  
18 know, I don't know for a hundred percent, nor have I  
19 been privy to those conversations, nor have I ever  
20 been told those conversations take place. This is  
21 all speculation in my head. So, to your point,  
22 Mr. Mullanax, it doesn't count. It's speculation.  
23 All I know is I'm not involved in any of it, nor is  
24 anybody discussing this stuff with me.  
25 Q. Now, in the 2017 round of promotional

Page 22

1 THE WITNESS: Oh, I'm sorry. I don't  
2 know, either way, whether someone either paid  
3 attention to my note or followed up on it or anything  
4 after I wrote it.

5 MR. COWNAN: Thank you, Chief.

## 6 BY MR. MULLANAX:

7 Q. Now, after you completed these, or went  
8 through this process, did you ever have any  
9 discussions with Chief Scott about the promotions?

10 A. No.

11 Q. Did he ever ask you or did you ever say to  
12 Chief -- or make any comments to Chief Scott about  
13 any of the particular applicants?

14 A. No.

15 Q. Do you have an understanding of what  
16 happens after you complete this form in the  
17 promotional process?

18 A. Yes.

19 Q. What's your understanding of what happens  
20 after you complete this part?

21 A. My understanding is that the Chief will  
22 review our comments, written in a secondary criteria  
23 recommendations form. He'll have discussions at the  
24 assistant chief level, and then he'll make his  
25 decision. And that's essentially to the extent that

Page 24

1 decisions, you weren't involved in the promotional  
2 process then, but in your time there at the police  
3 police department, did you hear of any complaints  
4 from officers about the results of the promotional  
5 process in 2017?

6 A. Not that I remember.

7 MR. MULLANAX: Okay. Could we take --  
8 Peter, it's about 1:29. Could we take maybe a  
9 five-minute break? And I think we'll be able to wrap  
10 it up pretty quickly.

11 MR. COWNAN: Let's go off the record.

12 MR. MULLANAX: Okay. Let's go off the  
13 record.

14 (There was a break taken at 1:29 p.m.

15 until 1:36 p.m.)  
16 BY MR. MULLANAX:

17 Q. Chief, do you know

18 is?  
19 A. Yeah, I have a general understanding of t

20 rule of ten.  
21 Q. What's your understanding of the rule of

22 ten?  
23 A. My own personal understanding may not

24 hundred percent accurate, is that the selection  
25 officer, the appointing officer of the organization,



# ESQUIRE

DEPOSITION SOLUTIONS

DAVID LAZAR Confidential  
SCHIFF vs CITY AND COUNTY OF SAN FRANCISCONovember 12, 2021  
25-28

Page 25	Page 27
1 maybe, in this case, the chief of our department, can	1 Certificate of Deponent
2 select within that ten, that first ten, and once	2
3 selections are made, the band starts to drop and that	3 I, DAVID LAZAR, Deponent herein, do hereby
4 number starts to expand. But generally speaking, the	4 declare under penalty of perjury that I have read the
5 rule of ten, names for selection.	5 foregoing deposition and that, to the best of my
6 Q. Prior to, I guess, 2019, were you ever	6 knowledge, said deposition is true and accurate (with
7 involved in the promotional process in terms of	7 the exception of the following corrections listed
8 looking at the list, the promotional list, and	8 below), and affix my signature to said deposition.
9 figuring out the rule of ten and which order to go?	9
10 A. No.	10 Page Line Correction
11 Q. Were you ever involved in it after you	11 _____
12 became assistant chief?	12 _____
13 A. Deputy chief?	13 _____
14 Q. Deputy chief. I'm sorry. Deputy chief.	14 _____
15 A. No.	15 _____
16 Q. Now, back in 2017, there was a, I think, a	16 _____
17 women's group involved -- members of the San	17 _____
18 Francisco Police Department had a women's group, that	18 _____
19 they would meet occasionally. And are you aware of	19 _____
20 that group?	20
21 A. Vaguely.	21 I declare under penalty of perjury that the
22 Q. Well, there's been an allegation made there	22 foregoing is true and correct.
23 that Chief Scott spoke to that group in 2017 and	23
24 talked about the promotional process. Do you recall	24 _____ DATE DAVID LAZAR
25 ever attending a meeting like that with Chief Scott?	25
Page 26	Page 28
1 A. No.	1 CERTIFICATE OF REPORTER
2 Q. You don't have any recollection at all?	2
3 A. I have no -- I don't remember attending --	3 BE IT KNOWN that the foregoing proceedings
4 I mean, I attend a lot of meetings. But I don't	4 were taken before me, Michelle K. Seymour, that the
5 remember attending a women's group meeting with the	5 witness before testifying was duly sworn by me to
6 chief where the topic of promotions came up. I just	6 testify to the whole truth; that the foregoing 27
7 cannot -- I know I said no, but I just do not	7 pages are a full, true and accurate record of the
8 remember.	8 proceedings, all done to the best of my skill and
9 Q. There was a meeting with the Police	9 ability; and that the proceedings were taken down by
10 Officers Association in November of 2017 at which	10 me in shorthand and thereafter reduced to print under
11 Chief Scott attended. Do you recall that you	11 my direction.
12 attended that meeting with him, with Chief Scott?	12 I CERTIFY that I am in no way related to
13 A. I would have to say no. But I don't	13 any of the parties hereto nor am I in any way
14 remember, no.	14 interested in the outcome hereof.
15 Q. All right. I think that's all I have.	15 Dated at Flagstaff, Arizona, this 17th day
16 Thank you for your appearance here today.	16 of November, 2021.
17 A. Thank you. Very nice to meet you.	17
18 Q. Nice to meet you, too.	18
19 MR. COWNAN: Thank you.	19
20 Madam Court Reporter, City will take an	20
21 electronic copy.	21 Michelle K. Seymour / Registered
22 (The taking of the deposition was	22 Reporter / Arizona Certified Reporter
23 concluded at 1:39 p.m.)	23 No. 50710 / California CSR No. 5643
24	24
25	25